(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

APPEAL FROM ORDER NO. 16 OF 2004

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri J. P. Mulgaokar, advocate for the appellants.

Shri J. E. Coelho Pereira, Senior Advocate with Shri S. Karpe, advocate for the respondents.

CORAM : D. G. KARNIK, J.

DATE : 17th March, 2004

P.C.:

Heard learned counsel for the parties. The only contention raised by the learned counsel for the appellants is that the appellants are tenants in the suit property and the issue regarding tenancy is required to be referred to the Mamlatdar under the Agricultural Tenancy Act and, therefore, the Civil Court ought not to have granted an injunction. The suit is filed by the respondents/plaintiffs for a declaration of their title and for an injunction on the basis that

they are in possession. The Court was entitled to consider who was in possession of the property for the purpose of deciding an interim application for injunction. The fact that the issue regarding tenancy is required to be referred to tenancy authority does not prevent the court from considering the interim application for injunction.

On merits, nothing is shown that the decision of the trial Court is otherwise erroneous.

Hence Appeal From Order is dismissed.

D. G. KARNIK, J.

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